

October 19, 2010

The Honorable Andrew L. Carter  
United States Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Britt v. Aries Financial, et. al.*, 09-Civ-2398 (RJD) (ALC)  
*Petersen v. Aries Financial, et. al.*, 06-Civ-6663 (RJD) (ALC)

Dear Judge Carter:

Pursuant to the Court's September 16th, 2010 order, the parties hereby file a joint status report.

**Peterson**

**Depositions**

Since our last status letter dated September 13, 2010, the parties still have to complete the following depositions in the *Peterson* case:

Peterson: Date to be supplied. Counsel for Peterson has sent proposed dates to Aries but are still waiting for confirmation. Barring any unforeseen circumstances, this should be the last deposition date.

Steven Hlavna: Date to be supplied. Mr. Hlavna claimed that he was seeking the assistance of counsel, but neither he nor an attorney has called to schedule a deposition. Because of this, Plaintiffs will be serving him with a subpoena shortly.

**Peterson and Britt**

**Depositions**

Since our last status letter dated September 13, 2010, the parties still have to complete the following depositions in the *Britt and Peterson* case:

Wachovia: Plaintiffs sent an additional subpoena to Wachovia to depose a corporate representative. A paralegal in Wachovia's law department initially said he was having trouble contacting outside counsel to confirm. Then he stopped returning phone calls. Plaintiffs then sent a fax to Wachovia reiterating the need for the deposition. Wachovia finally responded through counsel who stated that under Florida law they needed Aries'

consent to release any information about their account. While Plaintiffs dispute this characterization, Aries indicated after several days that they would give partial consent to release of information. Plaintiffs are now waiting to hear back from Wachovia about the location and the name of the individual to be deposed. They have been promised that they would send this information on October 20, 2010.

### **Document Production**

Aries produced some documents, including e-mails to/from Albert London and a privilege log, in response to Plaintiff's request for production. They state that additional documents will be forthcoming, including e-mails to/from Lawrence Ramaekers.

Douglas Kahan states that he will produce his documents and a privilege log today, September 19, 2010.

Wachovia states that it will produce documents Wednesday October 20, 2010. This is pursuant to Aries' partial consent. Because of this Plaintiffs reserve the right to seek a court order releasing a complete set of the documents if all of the relevant information is not forthcoming in Wachovia's production.

### **Motion to Compel**

Plaintiffs anticipate filing a motion to compel once the promised documents are produced. However, it is currently impossible for Plaintiff to file until the promised production is finished.

### **Extension of Time**

Because Wachovia is still determining the identity of their corporate representative, Plaintiffs respectfully request an additional 30 days for discovery. Counsel for *Peterson* also needs additional time to depose Steve Hlavana, who has been evading phone calls. Moreover, Plaintiffs reserve their right to depose witnesses from Aries and Douglas Kahan due to the new production of documents.

We anticipate discussing the remaining discovery issues with the Court during the telephone conference scheduled for October 20<sup>th</sup> at 5:00 p.m.

Respectfully submitted,

/s/

Nina Simon  
*Attorney for Herman Britt*

Cc: Fred Sosinsky via ECF

